**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**FIRST APPEAL NO. 280 OF 1991**
**With**
**CROSS OBJECTIONS NO.343 OF 2001**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE R.S.GARG**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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**GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)**
**Versus**
**LAXMIBEN WD/O VERSHIBHAI KHIMJIBNHAI DANICHA & ORS. - Respondent(s)**

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**Appearance :**
Shri Mitul K. Shelat for Appellant(s).
Shri Mehul S. Shah for Respondent(s) : 1 - 4.
Respondent No.5 is unserved.

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**CORAM : HONOURABLE MR.JUSTICE R.S.GARG**

**Date : 21/08/2007**

**ORAL JUDGMENT**

Shri Mitul Shelat, learned Counsel for the appellant. Shri Mehul Shah, learned Counsel for respondent Nos.1 to 4. The parties agree that there is no necessity to issue notice to respondent No.5, who was driving the offending vehicle. Accordingly, the notice is dispensed with.

2. The appellant-Gujarat State Road Transport Corporation, being aggrieved by the judgement and award dated 18h June, 1990 passed by the learned Motor Accident Claims Tribunal (Main), Kutch at Bhuj, in M.A.C.P. No.43 of 1986, is before this Court with a submission that the learned Tribunal below was unjustified in making the award in the sum of Rs.3 Lakhs in favour of the dependents.

3. Shri Mitul K. Shelat, learned Counsel for the appellant, after taking me through the evidence, submitted that the learned Tribunal below was unjustified in holding the monthly income of the deceased at Rs.2,100/- per month when it had come on the record that at the time of the death of the deceased, he was earning Rs.714.30 per month. He submitted that if the formula of adding double the income to the original income and dividing the same by two is applied, then, the monthly income of the deceased could be assessed at Rs.1,100/- and out of that, 1/3rd is deducted towards the personal expenses of the deceased, then,

the dependency would not be Rs.1,400/- per month, but, would come down to around Rs.750/-. He submitted that the learned Tribunal below was unjustified in making such a huge award.

4. Shri Mehul Shah, learned Counsel for the respondents, on the other hand, submitted that the learned Tribunal below was unjustified in not making proper award in favour of the claimants, especially, when it has come on the record that the deceased was a young man of 21 years and he was entitled to revision of pay time and again and not only those amounts, but, he was also entitled to dearness allowance and other benefits flowing from the service conditions.

5. It is not in dispute before me that the accident had taken place on 14th September, 1985. At that time, the salary of the deceased was Rs.714.30. It is also not in dispute before me that within one year of the death, the salaries of the foresters/forest guards were revised and the person like the deceased was to get a sum of Rs.2,100/- towards his monthly emoluments. If the learned Tribunal below has taken into consideration the future prospects and has held that the salary could be safely assessed at Rs.2,100/- per month and the dependency at Rs.1,400/- per month, no wrong with the calculations and assessment can be found. Though it is vehemently submitted by Shri Shah that the learned Tribunal below was unjustified in awarding less amount, but, in

the opinion of this Court, if the amount is to be enhanced in favour of the claimants, then, in view of the judgement of the Supreme Court, the multiplier will also have to be reduced from 20 to 16 and if that process is applied, the amount almost would be the same.

6. After hearing the parties and going through the material available on the record, I hold that neither the appeal nor the cross objections merit.

7. The appeal and the Cross Objections are accordingly dismissed. No costs.

***[R.S.Garg, J.]***

*kamlesh**